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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/788,773	02/27/2004	Hiroo Takemura	I4470.25US01	6159
23552	7590	10/18/2005	EXAMINER	
MERCHANT & GOULD PC P.O. BOX 2903 MINNEAPOLIS, MN 55402-0903			COOLMAN, VAUGHN	
			ART UNIT	PAPER NUMBER
			3618	

DATE MAILED: 10/18/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	10/788,773	TAKEMURA ET AL.	
	<b>Examiner</b>	<b>Art Unit</b>	
	Vaughn T. Coolman	3618	

— The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) Responsive to communication(s) filed on 27 February 2004.
- 2a) This action is FINAL.                    2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) Claim(s) \_\_\_\_\_ is/are allowed.
- 6) Claim(s) 1-20 is/are rejected.
- 7) Claim(s) \_\_\_\_\_ is/are objected to.
- 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on 27 February 2004 is/are: a) accepted or b) objected to by the Examiner.  
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) All    b) Some \* c) None of:
  1. Certified copies of the priority documents have been received.
  2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- 1) Notice of References Cited (PTO-892)
- 2) Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
 Paper No(s)/Mail Date 07072004, 02272004.
- 4) Interview Summary (PTO-413)  
 Paper No(s)/Mail Date. \_\_\_\_\_.
- 5) Notice of Informal Patent Application (PTO-152)
- 6) Other: \_\_\_\_\_.

## **DETAILED ACTION**

### ***Claim Rejections - 35 USC § 112***

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 5, 14 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. The use of the term “via” in the last line of each claim is unclear regarding structure of the claimed invention.

### ***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1, 2, 6, 10, 11, 15 are rejected under 35 U.S.C. 102(b) as being anticipated by Teruaki (JP 60-176873).

In re claims 1 and 2, Teruaki discloses a structure for mounting a front fender, including: a front fender (FIG 7, item 20) being coupled to a front fender mounting portion (FIG 7, items 7, 8) formed in a front fork (FIG 7, item 6) with a fastening member (FIG 7, item 9); and a holding member (FIG 7, item 11) being coupled to the front fender mounting portion and the front fender by the fastening member; wherein a tip portion of the holding member is extended to a position separate from the front fender mounting portion to support a reverse surface of the front fender,

as shown in FIGS 3, 4, 7. Teruaki also shows the holding member being interposed between the front fender mounting portion and the front fender (FIG 7).

In re claim 6, Teruaki discloses all of the elements of the claimed invention as described above and further shows the fastening member (9) being a bolt.

In re claims 10 and 11, Teruaki discloses a motorcycle (FIG 1, item 1) including: a vehicle frame (FIG 1, item 2) including front forks; a front wheel (FIG 1, item FW) suspended by the front forks; a front fender (FIG 7, item 20) being coupled to a front fender mounting portion (FIG 7, items 7, 8) formed in each respective front fork (FIG 7, item 6) with a fastening member (FIG 7, item 9); and a holding member (FIG 7, item 11) being coupled to the front fender mounting portion and the front fender by the fastening member; wherein a tip portion of the holding member is extended to a position separate from the front fender mounting portion to support a reverse surface of the front fender, as shown in FIGS 3, 4, 7. Teruaki also shows the holding member being interposed between the front fender mounting portion and the front fender (FIG 7).

In re claim 15, Teruaki discloses all of the elements of the claimed invention as described above and further shows the fastening member (9) being a bolt.

Claims 1, 3, 10, 12, 19 are rejected under 35 U.S.C. 102(b) as being anticipated by Yuichi (JP 07-117756).

In re claims 1 and 3, Yuichi discloses a structure for mounting a front fender, including: a front fender (FIG 2, item 38) being coupled to a front fender mounting portion (FIGS 3, 4; item 39) formed in a front fork (FIG 4, item 31) with a fastening member (FIG 3, item 41); and a holding member (FIG 3, item 40) being coupled to the front fender mounting portion and the

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front fender by the fastening member; wherein a tip portion (FIG 3, item 42) of the holding member is extended to a position separate from the front fender mounting portion to support a reverse surface of the front fender, as shown in FIGS 2 and 3. Yuichi also shows the holding member (40) being disposed inside the front fender mounting portion (39).

In re claims 10 and 12, Yuichi discloses a motorcycle (FIG 1) including: a vehicle frame (FIG 1, item 2) including front forks; a front wheel (FIG 1, item 3) suspended by the front forks; a front fender (FIG 2, item 38) being coupled to a front fender mounting portion (FIGS 3, 4; item 39) formed in each respective front fork (FIG 4, item 31) with a fastening member (FIG 3, item 41); and a holding member (FIG 3, item 40) being coupled to the front fender mounting portion and the front fender by the fastening member; wherein a tip portion (FIG 3, item 42) of the holding member is extended to a position separate from the front fender mounting portion to support a reverse surface of the front fender, as shown in FIGS 2 and 3. Yuichi also shows the holding member (40) being disposed inside the front fender mounting portion (39).

In re claim 19, Yuichi shows a method for mounting a front fender, including: providing a front fender (FIG 3, item 38) that is coupled to a front fender mounting portion (FIG 3, item 39) formed in a front fork (FIG 3, item 31) with a fastening member (FIG 3, item 41); coupling a holding member (FIG 3, item 40) that is coupled to the front fender mounting portion and the front fender using the fastening member (shown in FIG 3); and allowing a tip portion (FIG 3, item 40) of the holding member to extend to a position separate from the front fender mounting portion to support a reverse surface of the front fender (shown in FIG 3).

Claims 1, 3, 4, 5, 10, 12, 13, 14, 19, 20 are rejected under 35 U.S.C. 102(b) based upon a public use or sale of the invention. A 1985 YAMAHA V-MAX motorcycle, on sale more than one year prior to the filing of the instant application.

In re claim 1, the V-MAX parts catalog shows a structure for mounting a front fender that includes a front fender (item 1, Part #1FK-21511-00-2X) that is coupled to a front fender mounting portion, shown in the assembly drawing, formed in a front fork (item 25, Part #1FK-23103-00-00) with a fastening member (item 4, Part #92995-06100-00); and a holding member (item 3, Part #97011-06015-00) that is coupled to the front fender mounting portion and the front fender by the fastening member; wherein a tip portion, the head of the bolt, of the holding member is extended to a position separate from the front fender mounting portion to support a reverse surface of the front fender, as shown in the drawing.

In re claim 3, the drawings of the V-MAX also show the holding member being disposed inside the front fender mounting portion.

In re claim 4, the drawings of the V-MAX also show an elastic body (item 2, Part #90387-07789-00) being interposed between the tip portion of the holding member and the reverse surface of the front fender. This type of body mounting is well known in the art, in order to reduce vibrations and the tendency for cracking in fenders, fairings, and cowls on motorcycles.

In re claim 5, the drawings of the V-MAX also show the front fender and the holding member being mounted on the front fender mounting portion with the fastening member via an elastic member (item 2, Part #90387-07789-00). Similar to claim 4, this type of fastening configuration is well known to workers of ordinary skill in the art.

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In re claim 10, the YAMAHA V-MAX parts catalog discloses the elements described in re claim 1, and further shows a motorcycle that includes a vehicle frame (item 1, Part #1FK-21110-00-33), a front wheel (item 1, Part #1FK-25168-00-98) suspended by the front forks.

In re claim 12, the YAMAHA V-MAX parts catalog discloses the elements described in re claim 3.

In re claim 13, the YAMAHA V-MAX parts catalog discloses the elements described in re claim 4.

In re claim 14, the YAMAHA V-MAX parts catalog discloses the elements described in re claim 5.

In re claim 19, the YAMAHA V-MAX parts catalog shows a method for mounting a front fender, including: providing a front fender that is coupled to a front fender mounting portion formed in a front fork with a fastening member; coupling a holding member that is coupled to the front fender mounting portion and the front fender using the fastening member; and allowing a tip portion of the holding member to extend to a position separate from the front fender mounting portion to support a reverse surface of the front fender.

In re claim 20, the YAMAHA V-MAX parts catalog discloses the method described above, and further shows the method including interposing an elastic body between the tip portion of the holding member and the reverse surface of the front fender.

***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

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(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 4, 5, 7, 13, 14, 16 are rejected under 35 U.S.C. 103(a) as being unpatentable over Teruaki (JP 60-176873) in view of Saiki et al (U.S. Patent No. 6,557,876).

In re claims 4 and 13, Teruaki discloses all of the elements of the claimed invention as described above except for an elastic body being interposed between the tip portion of the holding member and the reverse surface of the front fender. Saiki, however, shows the use of elastic members (FIGS 4, 5; item 25) in conjunction with a front fender (FIG 1, item 21) mounting assembly for a motorcycle (FIG 1, item V). It would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the front fender mounting structure shown by Teruaki, with the interposed elastic body as taught by Saiki, since such a modification would provide the advantage, according to Saiki, of reducing vibration and noise of the front fender (paragraph 0047, lines 2-4).

In re claims 5 and 14, Teruaki discloses all of the elements of the claimed invention as described above except for the front fender and the holding member being mounted on the front fender mounting portion with the fastening member via an elastic member. However, Saiki shows the use of elastic members (FIGS 4, 5; item 25) in conjunction with a fastening member of a front fender (FIG 1, item 21) mounting assembly for a motorcycle (FIG 1, item V). It would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the front fender mounting structure shown by Teruaki, with the elastic member mounting as taught by Saiki, since such a modification would provide the advantage, according to Saiki, of reducing vibration and noise of the front fender (paragraph 0047, lines 2-4).

In re claims 7 and 16, Teruaki discloses all of the elements of the claimed invention as described above except for the bolt being stepped. However, Saiki teaches the use of stepped bolts (FIG 4, item 26) in conjunction with front fenders (FIG 4, item 21) of a motorcycle (FIG 1, item V). It would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the structure for mounting a front fender of a motorcycle shown by Teruaki, with the stepped bolt as taught by Saiki, since such a modification would provide the advantage of ensuring a limited deformation of either the holding member, the front fender, or both depending on how many steps the bolt comprises. The fender deformation limit configuration could prevent cracking of the front fender at the point of fastening.

Claims 8, 17 are rejected under 35 U.S.C. 103(a) as being unpatentable over Teruaki (JP 60-176873) in view of Tsuyama (U.S. Design Patent No. 328,441).

In re claims 8 and 17, Teruaki discloses all of the elements of the claimed invention as described above except for the holding member further including a portion for mounting a reflector. However, Tsuyama shows a reflector for a bicycle, it being well known in the art that bicycle reflectors and motorcycle reflectors are of similar size, that is obviously capable of being mounted on a portion of the holding member shown by Teruaki. It would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the holding member shown by Teruaki, with the reflector as taught by Tsuyama, since such a modification would have the advantages of enhancing the visibility of the motorcycle to others and aiding in meeting lighting regulations in certain countries such as the U.S.

Claims 9, 18 are rejected under 35 U.S.C. 103(a) as being unpatentable over Teruaki (JP 60-176873) in view of Tsuyama (U.S. Design Patent No. 328,441) and further in view of Toshiyuki (JP 62-101592).

In re claims 9 and 18, Teruaki in view of Tsuyama discloses all of the elements of the claimed invention as described above except for the portion of the holding member for mounting the reflector extending backward from a side opposite to that of the tip portion. However, Toshiyuki shows structure for a holding member (FIG 1, item 9) of a motorcycle fender (FIG 1, item 8) including a portion (FIG 1, item 9a) obviously capable of mounting the reflector of Tsuyama extending backward from a side opposite to that of the tip portion, shown in engagement with the fender. It would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the holding member with reflector shown by Teruaki as modified by Tsuyama, with the holding member structure as taught by Toshiyuki, since such a modification would provide a mounting configuration that doesn't require removal of the holding member to replace a reflector that has been damaged by a thrown stone for example.

Claim 20 is rejected under 35 U.S.C. 103(a) as being unpatentable over Yuichi (JP 07-117756) in view of Saiki et al (U.S. Patent No. 6,557,876).

Yuichi discloses all of the elements of the claimed invention as described above except for the method including interposing an elastic body between the tip portion of the holding member and the reverse surface of the front fender. Saiki, however, shows the use of elastic members (FIGS 4, 5; item 25) in conjunction with a front fender (FIG 1, item 21) mounting assembly for a motorcycle (FIG 1, item V). It would have been obvious to one having ordinary

skill in the art at the time the invention was made to modify the method for mounting a front fender shown by Yuichi, with the interposed elastic body as taught by Saiki, since such a modification would provide the advantage, according to Saiki, of reducing vibration and noise of the front fender (paragraph 0047, lines 2-4).

*Conclusion*

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Ohtani (U.S. Patent No. 4,005,874) shows a reflector capable of being mounted on various holding members.

Motojima et al (U.S. Patent No. 6,073,948) and Bien (U.S. Patent No. 5,098,765) both show a fastening arrangement for a vehicle fender using elastic members. Motojima's mounting is expressly for motorcycle vehicles.

Tadashi (JP 02-299993), Yoshiki (JP 05-105151), Masaaki (JP 62-166183), Kurayoshi et al (U.S. Patent No. 5,323,869), Morioka (U.S. Patent No. 4,458,909), and Harley (U.S. Patent No. 2,510,222) all teach various elements of the claimed invention.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Vaughn T. Coolman whose telephone number is (571) 272-6014. The examiner can normally be reached on Monday thru Friday, 8am-6pm EST.

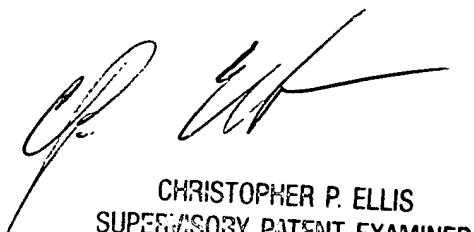
If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Christopher Ellis can be reached on (571) 272-6914. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Travis Coolman  
Examiner  
Art Unit 3618

vtc



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